IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1767 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 No

STATE OF GUJARAT

Versus

BALA KANA GACHHAR

Appearance:

1. Special Civil Application No. 1767 of 2001

MR DIGANT P JOSHI AGP for Petitioner No. 1

MR AS SUPEHIA for Respondents No. 1-7

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 13/12/2001

ORAL JUDGEMENT

1. RULE. Heard the learned counsel appearing on both the sides. Service of Rule is waived by the learned counsel for the respondents.

2. The State Government has, through its Assistant Director of Horticulture, Vegetable Development Scheme, challenged the order of the Labour Court, Junagadh in Complaint No.59 of 1999 which was filed in pending Demand Reference Case No.3 of 1999, whereby the respondents-workmen were ordered to be reinstated with full backwages.

3. The relevant facts in brief are that the respondents-workmen, claiming to be in service of the petitioner since many years, had raised a demand for regularisation of their service. Even as the demand and dispute for regularisation was referred to the Labour Court, the workmen were threatened with termination of their service and under such apprehension of being discharged, they approached the Labour Court for a permanent injunction against termination of their service in violation of Section 33 of the Industrial Disputes Act, 1947 (`the Act' for short).

4. In reply to the application, it was stated on behalf of the petitioner that the workmen concerned were already discharged from service with effect from 1.12.1999, whereas the application for stay was made on 4.12.1999. In these circumstances, the termination of service having already taken place, the workmen applied for converting the application for stay into a case for reinstatement. As against the oral deposition of the workmen, no evidence was led on behalf of the petitioner and even the deposition of workmen was not challenged by cross-examining any of them. After appreciating such evidence as was brought on record, the Labour Court found that the workmen were in continuous service of about 3 to 27 years and they were orally discharged from service with effect from 1.12.1999 without any notice or payment of any compensation.

5. Challenging the above award, the learned Assistant Government Pleader argued on behalf of the petitioner that the workmen concerned having been employed on daily-wage basis, they were not entitled to either notice or any compensation. No evidence of any witness having been led in support of any of the contentions, the petition itself is not maintainable. No case is made out for interference with the impugned order in exercise of the extraordinary jurisdiction of the High Court and, therefore, the petition is rejected. Rule is discharged with no order as to costs.

Sd/-

13.12.2001 (D.H.Waghela, J.)
(KMG Thilake)